IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY
And
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO: 920 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 13/04/2004 in WP NO: 6812 OF 2004 on the file of the High Court.)

Between:

1 Nizam's Institute of Medical Sciences, Panjagutta, Hyderabad, Rep. by its Executive Registrar.

2 The Director Nizam's Institute of Medical Sciences, Panjagutta, Hyderabad.

... APPELLANT (S)

AND

1 Dr. S. Jaishankar, S/o. t. Sadasivan,
Nizam's Institute of Medial Sciences, Panjgutta, Hyderabad.
2 Dr. Kakarla Subba Rao, S/o. Venkat Ratnam,
Nizam's Institute of Medial Sciences, Panjgutta, Hyderabad.

...RESPONDENT (S)

For the Appellants: MR.V.V.PRABHAKARA RAO, Advocate

For the Respondents.: MR.NUTY RAM MOHAN RAO, Advocate

The Court Made the Following Judgment:

ORAL JUDGMENT: (Per BSSR, J)

This Writ Appeal is directed against the orders of the learned single Judge in W.P.M.P.No.8840 of 2004 in W.P.No.6812 of 2004, dated 30-04-2004.

2. The first respondent herein, who is working as Professor of Cardiology in Nizam's Institute of Medical Sciences (for short "NIMS"), Hyderabad, was placed under suspension on 31-07-2003 for certain irregularities alleged to have been committed by him. The said suspension order came to be challenged by the first respondent in W.P.No.6812 of 2004. He also moved an application for suspension of the suspension Order and also to say all further proceedings in pursuance of the charge memo dated 12-08-2003. The learned single Judge after hearing both the parties, by an Order dated 30-04-2004 suspended the order of suspension dated 31-07-2003 and also charge memo dated 12-08-2003, pending disposal of the Writ Petition. Assailing the said order, the present Writ Appeal is filed by the NIMS.

3. Learned counsel for the appellant submits that the order passed by the learned single Judge is illegal and not sustainable in law. He submits that the learned single Judge erred in recording the finding that the Director of NIMS was not competent to place the first respondent under suspension and also issued charge memo. He refers to various provisions contained in the NIMS Act and also Regulations framed by the Institute in G.O.Ms.No403, dated 24-06-1989. During the course of hearing, it was brought to the notice of this Court that the Executive Board of the appellant-Institute issued proceedings No. NIMS/DIR.P-(A)/03, dated 11-06-2004 placing the first respondent

under suspension pending disciplinary proceedings. In view of this, the learned counsel would submit that the Order passed by the learned single Judge cannot be given effect to unless the subsequent Order made on 11-06-2004 is challenged.

The learned counsel for the first respondent, however, submits that the entire proceedings are issued only to humiliate and harass the first respondent-employee. In any case, he submits that the Orders placing suspension by the Director are to be declared as illegal and incompetent in view of the subsequent Orders passed on 11-06-2004.

4. We have heard the learned counsel for the parties at length.

5. Originally, the first respondent was placed under suspension by the Director of NIMS and a charge memo was also issued by him. It was the contention of the appellant that the Director of NIMS was not competent to place the first respondent under suspension and issue charge memo and that as per the provisions of the Act; it is only the Executive Board of NIMS, which is competent to place the first respondent under suspension. The learned single Judge, accepting the contention of the first respondent granted interim suspension. However, now before we consider the validity of the Order of the learned single Judge, we find that scenario has been substantially changed. Even assuming that the Order of the learned single Judge cannot be interfered with, yet, the first respondent cannot be reinstated into service in view of the Order passed by NIMS on 11-06-2004.

The learned counsel for the appellant further submits that both the Director of NIMS as well as the Executive Board of NIMS are entitled to place the first respondent under suspension and proceed with the disciplinary enquiry against him. While the

contention of the learned counsel for the first respondent is that they cannot exercise concurrent powers. Be that as it may, we are of the considered view that the order passed by Executive Board on 11-06-2004 in view of the Orders of the learned Single Judge cannot be given effect to so as to reinstate the first respondent into service. Under these circumstances, we are of the considered view that the Writ Petition has to be disposed of on its own merits.

6. Accordingly, the Writ Appeal is disposed of directing the Writ Petition to be disposed of expeditiously within a period of four weeks from today and in the meanwhile, the Order of the learned single Judge cannot be given effect to in view of the Orders passed by the NIMS dated 11-06-2004.

However, it is open to the first respondent to challenge the Order of suspension dated 11-06-2004 if he so chooses. No costs.

DEPUTY REGISTRAR

June 16, 2004

// TRUE COPY //

SECTION OFFICER

Copy to:

1. Executive Registrar, Nizam's Institute of Medical Sciences, Panjagutta, Hyderabad.
2. The Director, Nizam's Institute of Medical Sciences, Panjagutta, Hyderabad.

3. Two C.D. Copies.